

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	00 C 3552	DATE	6/16/2000
CASE TITLE	USA ex rel. Erdogan Kurap vs. Donald Snyder, Jr.		

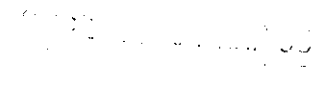
[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Order. Kurap's application to proceed without prepayment of the filing fee is denied. Kurap is advised that unless he causes the \$5 filing fee to be paid on or before June 30, 2000 this Court would be constrained to dismiss the Petition for nonpayment. Kurap's motion for appointment of counsel is denied for the present, but without prejudice to its potential reassertion later on. Warden Donald Snyder, Jr. is ordered to file an answer or other pleading on or before July 14, 2000 addressing that and all other questions posed by the Petition.
- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.		<div style="text-align: center;">  </div>	number of notices	<div style="text-align: center;"> Document Number <div style="font-size: 4em;">5</div> </div>
JUN 19 2000 <small>date docketed</small>				
IS <small>docketing deputy initials</small>				
<small>date mailed notice</small>				
SN <small>courtroom deputy's initials</small>	Date/time received in central Clerk's Office		mailing deputy initials	

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCKETED
JUN 19 2000

UNITED STATES OF AMERICA ex rel.)
ERDOGAN KURAP #B-42516,)
)
 Petitioner,)
)
v.) No. 00 C 3552
)
DONALD SNYDER, JR., et al.,)
)
 Respondents.)

MEMORANDUM ORDER

Erdogan Kurap ("Kurap") has filed a self-prepared Petition for Writ of Habeas Corpus ("Petition"), for purposes of which he has both completed and supplemented the form Petition supplied by the Clerk of this District Court for use by persons in state custody. Unlike the usual state prisoner seeking federal habeas relief, Kurap challenges neither the constitutionality of his conviction nor the constitutionality of the sentence imposed-- instead his contention is that he is being held unlawfully because a treaty between his native country (Turkey) and the United States requires that he be transferred back to Turkey to serve out his remaining Illinois sentence (and in that respect, 28 U.S.C. §2254(a)¹ permits habeas petitions to challenge a custodial status in violation of a treaty).

Kurap has accompanied his Petition with an Application To Proceed Without Prepayment of Fees ("Application") and a Motion

¹ All further references to Title 28's provisions will simply take the form "Section--."

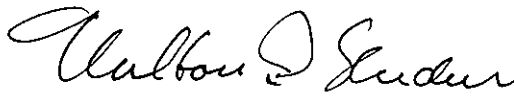
for Appointment of Counsel ("Motion"). As to those documents:

1. Kurap has, as the statute requires, annexed to the Application a printout of his trust fund account at Menard Correctional Center. That printout discloses a balance of several hundred dollars--and so Kurap can readily pay the modest \$5 fee applicable to habeas cases. Accordingly the Application is denied, and although this opinion later directs a response to the Petition, Kurap is advised that unless he causes the \$5 filing fee to be paid on or before June 30, 2000 this Court would be constrained to dismiss the Petition for such nonpayment.

2. As for the Motion, Kurap has failed to fill out its most critical component: a statement of any efforts he has made to obtain counsel on his own. Even were that not the case, though, in all events this Court will be better equipped to address that issue when the responsive pleading referred to in the next paragraph is in hand. Hence the Motion is denied for the present, but without prejudice to its potential reassertion later on.

Because of the nature of Kurap's claim, this Court cannot determine at the threshold whether he has satisfied either alternative precondition (1) of the exhaustion of available state remedies (Section 2254(b)(1)(A)) or (2) of the absence of available state corrective process (Section 2254(b)(1)(B)).

Accordingly, as permitted by Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, respondent Warden Donald Snyder, Jr. is ordered to file an answer or other pleading on or before July 14, 2000 addressing that and all other questions posed by the Petition. This Court will then determine what further steps are called for.

A handwritten signature in cursive script, reading "Milton I. Shadur".

Milton I. Shadur
Senior United States District Judge

Date: June 16, 2000